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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,169	09/10/2003	Lin Wang	CL1518 US CNT	3752

23906 7590 09/27/2005

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WILMINGTON, DE 19805

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,169

Applicant(s)

WANG ET AL.

Examiner

Roberto Rábago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-28,30-33 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-28, 30-33 and 35-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/12/2005 has been entered.

2. Prior rejections are withdrawn in view of amendment filed 7/12/2005. The amendment has narrowed the scope of the independent claim to require that the second active polymerization catalyst "has little or no tendency to copolymerize ethylene and α -olefins". This limitation is discussed in the specification at the paragraph bridging pages 14-15; however, the passage provides no clear numerical definition for this limitation. The broader description of copolymerization activity of the second catalyst (i.e., that the second catalyst "does not readily" copolymerize ethylene and α -olefins) is described as a comparison between the two catalysts, wherein the second catalyst "does not incorporate α -olefins in a copolymer with ethylene as well as the first polymerization catalyst". The limitation newly added to claim 26, requiring that the second active polymerization catalyst "has little or no tendency to copolymerize ethylene and α -olefins" is understood as a significant increase in the copolymerization activity difference between the two catalysts; therefore, the claims are examined using

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the interpretation that when components (1) through (4) are contacted, the second polymerization catalyst either has no ability to copolymerize ethylene and α -olefins, or has copolymerization ability which is trivial compared with that of the first polymerization catalyst.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 26-28, 30-33 and 35-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification as filed has not enabled a method of contacting components stated as (1), (2), (3) and (4), wherein both (3) and (4) are Ziegler-Natta or metallocene catalysts, resulting in a polymerization wherein the second catalyst results in little or no copolymerization compared with the first polymerization catalyst. The working examples include no separately added α -olefins, and therefore these examples are unrelated to the claimed invention, and there is nothing in the specification directed to the identification or selection of Ziegler or metallocene catalysts which would show such radically different copolymerization activity in a method of

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contacting components (1) through (4). In fact, the disclosure states at page 13, last paragraph:

The first polymerization catalyst for the copolymerization of the ethylene and the olefin series should be a catalyst that can copolymerize ethylene and α -olefins so that the relative rate of copolymerization of these two types of monomers are similar. Such catalysts include Ziegler-Natta-type catalysts and metallocene catalysts.

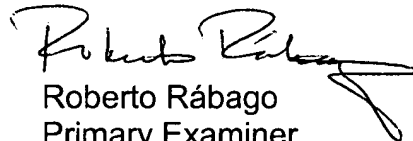
In view of the express teaching that Ziegler and metallocene catalysts have similar rates of copolymerization, and the complete lack of any disclosure to the contrary, the specification clearly fails to enable the claimed method which requires two Ziegler or metallocene catalysts of radically different copolymerization ability.

5: Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roberto Rábago
Primary Examiner
Art Unit 1713

RR
September 16, 2005